

# **SAN DIEGO REGIONAL WATER QUALITY CONTROL BOARD**

## **EXECUTIVE OFFICER'S REPORT**

**March 12, 2003**

### **PART A**

#### **SAN DIEGO REGION STAFF ACTIVITIES** *(Staff Contact)*

1. **California Wetland Rapid Assessment Method Workshop** *(Mike Porter)*

Regional Board staff (Mike Porter) participated in a two-day workshop for the development of a Rapid Assessment Method (RAM) for quantitatively evaluating the condition of a wetland. Currently, there is no common, recognized system in California for quantitatively determining the condition (quality) of a wetland. The U.S. Environmental Protection Agency (EPA) recognized this and awarded a grant to the San Francisco Wetland Institute and the Southern California Coastal Water Research Project Authority (SCCWRP) to develop this method for Northern California and Southern California, respectively. Presently, only Washington and Ohio have such a system in place to quantitatively evaluate wetland conditions. Workshop participants identified the desired components of a Southern California-specific RAM, and used and evaluated the Ohio RAM in a saltwater marsh (upper Newport Bay) and a fresh water marsh (Mason Regional Park) to provide feedback to SCCWRP. Final development of this method will lead to rapid, consistent, common evaluation of wetland impacts, restorations and recoveries across Southern California by consultants, academics and government agencies.

2. **Mission Valley Terminal Presentation** *(Kelly Dorsey)*

On March 21st, Engineering Geologist Kelly Dorsey will give a presentation to the San Diego River Coalition regarding the ongoing cleanup at the Mission Valley Terminal.

3. **Conference on Contaminated Soils, Sediments and Water** *(Julie Chan)*

Senior Engineering Geologist, Julie Chan, will be moderating the March 17th session on Cleanup Issues at the thirteenth annual West Coast Conference on Contaminated Soils, Sediments and Water sponsored by the Association for Environmental Health and Science. The conference is scheduled for March 17 – 20, and will be held at the Mission Valley Marriott Hotel in San Diego. For the past twelve years, this annual conference has helped to bring the environmental science community closer together by providing a forum to facilitate the exchange of information of technological advances, new scientific achievements, and the effectiveness of standing environmental regulation programs.

**PART B**  
**SIGNIFICANT REGIONAL WATER QUALITY ISSUES**

1. Sanitary Sewer Overflows (SSO) (*Chiara Clemente, David Hanson, Bryan Ott, Victor Vasquez*)  
(Attachment B-1)

From February 1 through February 28, 2003, there were 29 sanitary sewer overflows (SSOs) from publicly-owned collection systems reported to the Regional Board office; 23 of these spills reached surface waters or storm drains, and three resulted in closure of recreational waters. Of the total number of overflows from public systems, five were 1,000 gallons or more.

Seven sewage overflows from private property were also reported from February 1 - 28; one was 1,000 gallons or more. Five of the private property spills reached surface waters or storm drains; one resulted in closure of recreational waters.

A total of 4.88 inches of rainfall were recorded at San Diego's Lindbergh Field for February 1 - 28, 2003. For comparison, in January 2003, 0.02 inches of rainfall were recorded, and 37 public SSOs were reported. In February 2002, 0.17 inches of rainfall were recorded and 31 public SSOs were reported.

Regional Board staff has updated the sewer overflow statistics for each sewer agency by fiscal year (FY) since FY 1998-99 in the attached table entitled "Sanitary Sewer Overflow Statistics." The annual report that was included in the agenda materials for the January Board meeting, titled "Public SSO Statistics Summary for FY 2001-02," is also attached. Staff will continue to improve the manner that SSO data is presented in the future in order to provide the Regional Board the most meaningful and insightful information.

Two Notices of Violation (NOV), one with a Request for Technical Report (RTR), were issued in February for recent significant overflows. The NOVs were issued to the following agencies for the events described below:

***City of Solana Beach***

On January 16, 2003, the San Elijo Joint Powers Authority (SEJPA) San Elijo Water Reclamation Facility, notified this office of a 30,000-gallon sanitary sewer overflow from a lift station that discharged to a nearby unlined spill basin. The lift station is the responsibility of the City of Solana Beach (City). A report from the SEJPA attributed the cause of the sanitary sewer overflow to a pump station failure resulting from a failed air compressor. Crews were reportedly able to recover all 30,000 gallons of sewage from the unlined spill basin. The pump station and the spill basin are located near the Coast Highway and the San Elijo Lagoon. NOV No. R9-2003-0087 and a RTR were issued on February 14, 2003. A sanitary sewer overflow of 100,000 gallons occurred at the same pump station on July 15, 2001. The overflow discharged to the same unlined spill basin. The San Elijo Lagoon is listed on the 1998 303(d) list for bacterial indicators, sedimentation/siltation and for being eutrophic.

***USMC Base, Camp Pendleton***

The United States Marine Corps Base Camp Pendleton (Base) notified this office of a sanitary sewer overflow that started January 27, 2003 from a cleanout on the north side of Building No. 620591 and resulted in a discharge of 7,500 gallons (~6,000 gallons reportedly recovered) of sewage to a storm drain and a dirt road. NOV No. R9-2003-0101 was issued on February 27, 2003.

***City of Laguna Beach Public Workshop***

On February 8, 2002, the City of Laguna Beach (City) Wastewater Advisory Committee held a public workshop to address public sanitary sewer overflows due to sewer main blockages caused by roots entering the collection system from failing private property lateral sewer lines. The workshop was well attended by about 60 City residents as well as by representatives from a local environmental group, the local real estate industry, a neighboring sewer agency, vendors, and roter sewer cleaning services. The goal of the workshop was to receive input from the public regarding the root problem and entertain possible solutions. The workshop was conducted partly in response to US EPA requirements to address root-related overflows. Regional Board staff attended the workshop as an observer.

Assistant City Manager John Pietig provided an overview of how roots entering laterals cause sewer overflows and presented possible options to address the problem. Options discussed included requiring annual cleaning of laterals, requiring inspection and repair of laterals when properties are sold or transferred, and requiring roter cleaning services to notify the City of rooting work that is conducted. Comments made by members of the audience during the public comment period following the presentation demonstrate that the public considers root blockage to be an important issue and generally supports measures to reduce spills caused by roots from private laterals. According to Mr. Pietig, public input from the workshop will be considered during an upcoming meeting of the City Wastewater Advisory Committee and incorporated in a report to be submitted by the City to the US EPA.

***2. Sewage Spill Citizen Complaints (Brian Kelley)***

At the January 9, 2002 Regional Board meeting, a few members of the public addressed the Board under the Public Forum item to discuss alleged reporting discrepancies of certain sewer agencies in the Orange County area. At the request of the Regional Board, staff has provided the following overview of procedures used to receive, investigate and respond to citizen complaints regarding sewer spills.

As background information, the following is a summary of the sewer overflow reporting requirements contained in Order No. 96-04, *General Waste Discharge Requirements Prohibiting Sanitary Sewer Overflows By Sewage Collection Agencies*. Order No. 96-04, as amended, requires publicly owned sewage collection agencies to report sanitary sewer overflows (SSOs) greater than or equal to 1,000 gallons, regardless of destination, and SSOs that reach surface waters, regardless of volume, to the Regional Board within 24 hours, followed by a written report within 5 days. The 24-hour notification may include

reporting by telephone, voice mail, or FAX. All public agency collection system SSOs, regardless of volume or destination, are required to be reported to the Regional Board in a quarterly report. Although public agencies are not required to report private lateral and other sewage spills on private property under Order No. 96-04, many of the sewage collection agencies do report these incidents when they know about them as a courtesy to the Regional Board. All reports are submitted under penalty of perjury.

On occasion, reports of sewage spills from concerned citizens are received via telephone, email or other means. Depending on the type of facility involved, the report is routed to the appropriate unit for follow-up. The majority of SSOs involve sewage collection agencies regulated under Order No. 96-04. Reports regarding these spills are referred to the Publicly Owned Treatment Works Compliance (POTWC) unit for investigation and response as appropriate.

After receipt of a complaint/sewage spill report from the public, staff in the POTWC unit checks to see if the spill is subject to the reporting requirements of Order No. 96-04. If so, staff then determines whether the responsible sewage collection agency has reported the spill in accordance with Order No. 96-04. If a spill report has not yet been received by the agency, staff contacts the agency to find out whether the agency is aware of the spill and what steps have been, or will be, taken to terminate the spill and protect the public and the environment from any effects of the spill. If the spill warrants immediate investigation, staff will respond by going to the spill site to obtain first-hand information on the cause and effects of the spill and provide assistance and direction to the agency to minimize adverse water quality impacts. The decision to respond immediately depends on several factors, including the volume of the spill, severity of damage to the system, length of time to repair the system, reason for the spill, waterbody affected, and threat to health and safety. For spills that staff believe do not require immediate attention, the sewer overflow reports are reviewed for completeness.

All sewage spill reports are evaluated to determine if further enforcement action is appropriate. In most cases that warrant further enforcement action, a Notice of Violation (NOV) is issued to the responsible agency. The NOV is often accompanied with a request for additional information, pursuant to California Water Code Section 13267. After all information is received, staff reevaluates the information to determine its adequacy. Staff compares the agency reports with any citizen reports received for the same spill. If any discrepancies are noted, further clarification is obtained from the responsible agency.

With regards to citizen reports/complaints, there are some inherent problems in relying solely on the information provided. Sometimes the reports will be made anonymously with no way of contacting the reporting party to obtain follow-up information or to clarify the information provided. Other times, the reporting party will provide information with no supporting evidence to validate his/her claim(s), such as exact time and place of the incident or pictures showing what was actually observed. In the end, it may come down to the responsible agency reporting information under penalty of perjury versus a citizen

making a verbal report of what they observed at a particular moment in time. Staff has the task of sorting out all of the information and deciding what additional action, if any, is appropriate.

If, after analyzing all of the information, staff decides that a responsible agency may have provided false information or failed to provide proper notification in violation of the provisions of Order No. 96-04, or committed other violations of California water laws or regulations, the standard enforcement actions are available. These may include issuance of a Cleanup and Abatement Order or Administrative Civil Liability Complaint by the Executive Officer, adoption of a Cease and Desist Order with or without a connection ban or Time Schedule Order, referral of the case to the District Attorney's office for further investigation, or referral of the case to the state Attorney General.

It may appear, based on the above discussion, that staff does not seriously consider reports from concerned citizens. On the contrary, staff does take citizen reports seriously and believes they play an important role in our efforts to protect water quality and the public. Staff, however, evaluates **all** information provided, not just citizens reports, and proceeds with action believed to be appropriate based on the information obtained.

### 3. City of Laguna Beach - Status of Spills (*Brian Kelley*) (*Attachment B-3*)

By email dated February 7, 2003 (copy attached), Mr. Roger von Butow, Chair of Clean Water Now! Coalition (CWN!C) and South County Watershed Conservancy (SOCWC,) requested that a formal hearing be held by the San Diego Regional Board at its April 9 regularly scheduled meeting in the City of Laguna Beach. The email reports that CWN!C has submitted numerous complaints to the Regional Board alleging the City intentionally falsified sewage spill reports and that the Regional Board has not acted and responded with due diligence to these complaints.

Regional Board staff has reviewed previous reports filed by Mr. von Butow in winter of 2001-2002 and requested additional information by letters dated February 8, 2002 from Mr. von Butow as well as other parties that could have information on certain sewage spills that occurred in the City of Laguna Beach service area, including City personnel. Based on the information submitted, Regional Board staff conducted an initial evaluation in July of 2002 and concluded that further Regional Board action was not warranted at that time for the sewage spills referenced by Mr. von Butow and others. Staff has received no additional information on these spills, but is continuing to evaluate the existing information for possible future Regional Board action.

### 4. Complaint Investigation of Montage Resort (Treasure Island) in Laguna Beach (*Christopher Means*) (*Attachment B-4*)

Attached is a copy of a staff report written in response to issues raised by Mr. Roger von Butow of the Clean Water Now! Coalition regarding the investigation of his report of an illicit discharge at Montage Resort, a 30-acre resort and residential project located along Pacific Coast Highway in the City of Laguna Beach. Through a series of e-mails to your

staff, Mr. von Butow alleges the City and SDRWQCB staff failed to adequately consider his input about the discharge and that our enforcement actions were too lenient.

On February 4, 2003, Mr. von Butow notified staff that contractors at the Resort were discharging wash water onto the beach. It was determined by City and the contractor the discharge occurred because a diversion facility on the site was not in operation due to improper construction. The diversion has since been repaired, and to date, no subsequent discharges have been observed.

In response to the report, City staff inspected the site on February 4<sup>th</sup> and SDRWQCB staff on February 5<sup>th</sup>. Both City and SDRWQCB staff notified the project representative that the discharge was a violation of City and State regulations and to cease all washing activities until the diversion was repaired. The City subsequently fined the developer \$100. Mr. von Butow requested confirmation that SDRWQCB considers the fine amount acceptable and if the SDRWQCB consider the City's investigation as thorough meriting no further inquiry or subsequent fines, damages or remedies.

As discussed in the staff report, we were satisfied with the City's response to Mr. von Butow, although we have advised the City on actions that they could take in the future to improve their investigations. A more thorough evaluation of the City's procedures for enforcing its local storm water program will be conducted as part of a municipal audit and the review of their annual reports. To date, our focus for the audits has been municipalities in San Diego County, but we will begin conducting some audits in Orange County this year.

5. Clean Water Act Section 401 Water Quality Certification Actions Taken in February 2003 (Stacey Baczkowski)

| DATE    | APPLICANT         | PROJECT TITLE  | PROJECT DESCRIPTION   | CERTIFICATION ACTION <sup>1</sup> |
|---------|-------------------|--|---|-----------------------------------|
| 2/5/03  | City of San Diego | Penasquitos Canyon Trunk Sewer Emergency Cleaning Project              | Cleaning of approximately 11,381 linear feet of existing pipes from existing manholes. Grading and clearing vegetation may be necessary for equipment access to the manholes. | Conditional                       |
| 2/6/03  | City of San Diego | Chollas Dam Leak Weir  | Construction of a 3' x 4' x 5' deep concrete weir at the end of an existing 8" leakage outfall from Chollas Heights Reservoir Dam.  | Standard                          |
| 2/11/03 | County of Orange  | M01 (Prima Deshecha) Outlet and Poche Beach Structural Best Management | Collect 700,000 gallons per day (500 GPM) of dry-weather abandoned urban runoff from the M01 storm channel at its outlet using a temporary                                    | Conditional                       |

|         |                      |   |   |             |
|---------|----------------------|---|---|-------------|
|         |                      | Practice (BMP)<br>Treatment System                          | removable dam structure<br>composed of sand bags or other<br>material and treat water.  |             |
| 2/13/03 | City of San<br>Diego | North Chollas<br>Community Park<br>Phase 1B<br>Improvements | Construction related to the<br>installation of the following<br>park improvements: paved<br>parking lot and entry road,<br>culvert bridge, pedestrian plaza<br>paving, entry signage, security<br>gates, landscaping and<br>irrigation. | Conditional |
| 2/25/03 | City of San<br>Diego | Carroll Canyon<br>Emergency Sewer<br>Access                 | Cleaning of approximately<br>25,373 linear feet of the<br>existing pipes from 74 existing<br>manholes. Grading is required<br>for temporary access routes.  | Conditional |
| 2/26/03 | RMC<br>Development   | Hidden Glen Estates   | The project would subdivide a<br>14.95-acre parcel into 20 half-<br>acre parcels. Infrastructure<br>would include a road off<br>Hidden Springs Drive (single<br>access off Hidden Mesa Road)<br>and two cul-de-sacs.                    | Conditional |

1 Standard certification is issued to projects that have minimal potential to adversely impact water quality. Conditional certification is issued to projects that have the potential to adversely impact water quality, but by complying with technical conditions, will have minimal impacts. Denials are issued when the projects will adversely impact water quality and suitable mitigation measures are not possible. Time expired refers to projects that may proceed due to the lack of an action by the Regional Board within specified regulatory timelines.

Public notification of pending 401 Water Quality Certification applications can be found on our web site at [http://www.swrcb.ca.gov/rwqcb9/Programs/Special\\_Programs/401\\_Certification/401\\_certification.html](http://www.swrcb.ca.gov/rwqcb9/Programs/Special_Programs/401_Certification/401_certification.html).

**6. Status of the Orange County Municipal Storm Water Permit (Order No. R9-2002-0001) (Dave Gibson)**

Seven petitions were filed with the State Board requesting a review of Order No. R9-2002-0001. At the request of the petitioners, the State Board has been holding six of the petitions [1465, 1465 (a), (b), (d), (e) and (f)] in abeyance. In addition, the State Board is now holding the Mission Viejo Petition [1465 (c)] in abeyance at the Petitioner's request. Since the petitions may be held in abeyance for as long as two additional years, staff has requested that the State Board re-consider the matter of the stay requests that it granted in August 2002. Staff submitted the Administrative Record and a Response in Opposition to the appeal filed by the City of Mission Viejo on July 26, 2002. The documents submitted by staff in opposition to the stay requests and the appeal by Mission Viejo were posted on the Regional Board website starting on July 29, 2002. It should also be noted that the

State Board recently dismissed the petitions for review filed on the Los Angeles Municipal Storm Water Permit.

The Orange County Copermittees submitted their Jurisdictional Urban Runoff Management Plans (referred to as Local Implementation Plans) and the revised Drainage Area Management Plan on February 13, 2003. This submittal included the Standard Urban Storm Water Mitigation Plans (SUSMPs). The Watershed Urban Runoff Management Plans must be submitted prior to August 13, 2003. Staff is currently reviewing the submitted documents for completeness.

7. Lake San Marcos Water Quality (*James Smith*) (*Attachment B-7*)

As requested by Regional Board Member, Gary Stephany, at the December 2002 Regional Board meeting, letters have been mailed to the California Department of Fish and Game and to the San Diego County Department of Environmental Health informing them of the Regional Board's concerns about poor water quality in Lake San Marcos. The letters also requested each agency to submit to the Regional Board any water quality data/information that they may have pertaining to Lake San Marcos and asked the agencies to consider further investigation into suspected problems. Both the letters are attached for your review.

8. Budget Trade and Gas Status (*Sue Pease*)

At the February 2003 Board meeting, the Board directed staff to determine whether a health risk assessment could be performed by a public agency for the risk presented to nearby businesses and residents from pollutants in the ground water originating from the Budget Trade and Gas site in Escondido.

Staff contacted the Air Pollution Control District (APCD) and the San Diego County Department of Environmental Health (DEH). The APCD informed staff that a risk assessment would be performed as part of compliance with Rule 1200 before permitting the operation of the high-vacuum-dual-phase extraction unit. The DEH directed staff to send a letter to Dr. Michelle Ginsberg, Chief of the Community Epidemiology Division of the DEH, requesting that her division conduct the risk assessment. The DEH will review the Regional Board's request and decide if it is appropriate to conduct the risk assessment. At the writing of this item, a draft letter to Dr. Ginsberg has been prepared and is under review.

Addendum No. 5 to Cleanup and Abatement Order No. 2000-255 has ordered the discharger, Mr. Jimmy Hsu, to submit a workplan with a cost estimate of the high-vacuum-dual-phase extraction by March 15, 2003. Staff has reminded Mr. Hsu and his consultant about the due date.

9. Redhawk Shell Gas Station - Temecula (*Sue Pease*) (*Attachment B-9*)

The Shell gas station located on Redhawk Parkway, Temecula, has had a petroleum hydrocarbon release that has contaminated the ground water with methyl tertiary butyl ether (MTBE) and other oxygenates. The gas station is within 200 feet of two Rancho



California Water District (RCWD) wells that provide water to the citizens of Temecula. The gas station is currently under Cleanup and Abatement Order (CAO) No. R9-2002-340, which directs Shell to investigate the extent of ground water contamination and remediate the ground water contamination according to directives in the order.

Recently two newspaper articles have discussed the interim remediation, ongoing investigation and the preliminary ground-water data obtained (attached). A meeting was held with Shell's project manager and consultants at the Regional Board office on February 26, 2003, to discuss the most recent findings from the investigation. Preliminary data shows that the ground water MTBE plume is shallow (30 feet below ground surface), and bypasses both RCWD wells approximately 100 feet to the south. RCWD analyzes the water pumped from both of its wells for MTBE and other oxygenates, and to date have not found MTBE or other oxygenates in the water. The two RCWD wells are "on demand" and do not pump 24 hours a day. Staff believes that this pumping schedule has decreased the risk to the wells from the MTBE plume.

Shell will continue the investigation with installation of additional ground water monitoring wells, and a design for a remediation system.

10. 2003 Triennial Review of the Basin Plan - - March 3, 2003 Public Workshop (*Laurie Walsh and Jody Ebsen*) (*Attachment B-10*)

The federal Clean Water Act requires states to review and consider revisions to their water quality standards at three-year intervals. This so-called "Triennial Review" is designed to accommodate and adapt to changing conditions. The Triennial Review is the process in which the Regional Board identifies water quality standards and other portions of the Basin Plan that are in need of review and possible revision. It is important to note that the Triennial Review itself is not a Basin Plan amendment. Rather it is simply a work planning exercise in which we identify and then prioritize our basin planning activities for the next three years. Issues on the Triennial Review list may or may not result in Basin Plan amendments. Each issue will be evaluated to determine the need for a future Basin Plan amendment. At the conclusion of the Triennial Review process, we will ask the Regional Board to adopt a Resolution to (1) confirm the prioritized list of issues as the official three-year work plan for basin planning activities; and (2) reaffirm those portions of the Basin Plan not identified on the list as needing review and possible revision.

**The Process**

The 2003 Triennial Review of the San Diego Basin Plan is now underway. The process began with a broad public solicitation for issues and areas of the Basin Plan in need of potential review. This solicitation period opened on January 31, 2003 and will close on March 14, 2003. To encourage public participation, the Regional Board conducted its first public workshop on the Triennial Review on March 3, 2003. The purpose of the workshop was to inform the public about the process, make clear how the public can participate, and to provide an opportunity to hear from the public about Basin Plan issues and questions. The workshop was attended by over thirty members of the public. At the

workshop, staff distributed a preliminary draft list of issues consisting of (1) issues identified during the 1998 Triennial Review; and (2) issues identified by Regional Board staff. This preliminary draft list of unprioritized issues, which will serve as the starting point for development of the 2003 list, is attached for your review.

At the close of the public solicitation period on March 14, staff will consider all public input and will develop a complete draft list of issues and supporting staff report. The draft list will include an estimate of the resources necessary to implement each issue and will be prioritized in accordance with pre-determined ranking criteria (which we are currently developing). We expect to release the draft list of issues to the public this summer for a formal public review and comment period during which we will conduct a second public workshop. The purpose of the second public workshop will be to present the draft list and to hear public comments and questions on the draft list.

We recommend that the Regional Board consider adoption of the Resolution concluding the Triennial Review in a two-Board meeting process. In late summer/early fall, we will ask the Regional Board to conduct a public hearing to allow members of the public to express their comments on the draft list to the Regional Board. At the close of the public hearing, we will recommend that the Regional Board close the public comment period. Staff will then respond in writing to all public comments received (oral and written) and will make final modifications to the draft list in accordance with public comment and Regional Board direction. At the following Board meeting, staff will present the final draft list of issues and ask the Regional Board to consider adoption of the Resolution concluding the 2003 Triennial Review process.

#### 11. San Diego Municipal Storm Water Permit *(Phil Hammer)*

The lawsuit challenging various requirements of the San Diego Municipal Storm Water Permit (Building Industry Association of San Diego County, et al., v. State Water Resources Control Board, et al.) was ruled on by the Superior Court of California in February 2003. The hearing on the matter was held on February 10, 2003, with a decision being issued on February 13, 2003. The Court ruled in favor of the State and Regional Boards on all counts, with all requirements of the Permit being upheld. In particular, the Court found that the Permit requirements had not been shown to be impracticable or unreasonable, including Permit provisions requiring compliance with receiving water quality standards. The Court also found that the State and Regional Boards are exempt from CEQA review when adopting municipal storm water permits.

In February 2003, USEPA and its contractor Tetra Tech, Inc. conducted compliance evaluations of the municipal urban runoff management programs of the Cities of Oceanside, Escondido, and National City. These compliance evaluations were conducted with funding provided to the State by USEPA. Regional Board staff participated in the evaluations, which were week-long detailed assessments of each municipality's overall success in meeting the requirements of the San Diego Municipal Storm Water Permit. The evaluations included in-field verification of program implementation, consideration of the overall effectiveness of each program, and identification of exemplary elements of

the programs. A report is currently being generated by Tetra Tech, Inc. which will identify potential program violations, program deficiencies, and positive program attributes. To date, compliance evaluations have been conducted for eight of the twenty San Diego Copermittee storm water programs.

12. Hess Drive Dam, Mt. Helix (*Mike Porter*) (*Attachment B-12*)

Regional Board staff member Mike Porter received a complaint on December 1, 2002, alleging the unauthorized filling of a creek in the eastern Mt. Helix area of unincorporated County of San Diego. The complainant asserted that illegal grading and expansion of an existing dam by the current landowner (Mr. Mark Creveling) led to water quality impairments. Staff reviewed the complainant's evidence, consulted with the County of San Diego, and the U.S. Army Corps of Engineers, and requested information from Mr. Creveling to assess potential water quality impacts. According to Mr. Creveling, the dam has been in place since at least the 1950s and was present when he bought the property in 1998. Mr. Creveling and his family had removed approximately 1 acre of *Arundo donax* (highly invasive, bamboo-like reed), automotive bodies and related parts, and trash/debris from the creek. Additionally, Mr. Creveling added soil to the dam area to fill in and smooth areas where the automotive material and *Arundo donax* had been removed and replanted the areas with native vegetation to control erosion. Finally, Mr. Creveling designed and installed a velocity reducing outlet structure (where none existed before) on the dam to reduce erosion during overflow events.

Due to very limited funding for Clean Water Act Section 401 Water Quality Certification Program and prioritization of complaints, staff did not conduct a site visit. However, based on the information reviewed to date, staff do not have additional concerns about water quality impairment from this dam.

13. Status of Waste Discharge Requirements for Proposed Subsurface Disposal System Near Lake Cuyamaca, San Diego County (*Bryan Ott*) (*Attachment B-13*)

At its November 13, 2002 meeting, the Regional Board determined the California Environmental Quality Act (CEQA) documentation provided by the Lake Cuyamaca Recreation and Park District (hereinafter District) to be incomplete, and hence did not take action on tentative waste discharge requirements for the subject proposed septic system with sub-surface leach field infiltration disposal. The Regional Board closed the public comment period on the item, but indicated that they would reconsider the matter at a future meeting provided the necessary CEQA documents were submitted to the Regional Board.

At the District's request, Regional Board staff met with representatives from the District on November 15, 2002 to discuss the status of the project and to develop a course of action. The District provided staff what it believed to be the missing CEQA information requested by the Board at the November 13 meeting.

Upon review of the additional information, staff found that the District erroneously determined the project to be exempt from CEQA under California Code of Regulations,

Title 14, Section 15061. Operating under this assumption, the District did not document an assessment of environmental consequences, which lead to a determination that the project would not have a significant environmental impact. It should also be noted that the District failed to file its Notice of Determination with the State Clearinghouse.

Legal counsel for the Regional Board has determined that the supplemental documentation provided by the District to the Regional Board following the November 13 meeting does not satisfy the need for CEQA compliance by the District.

By letter to Hugh Marx, the General Manager of the Lake Cuyamaca Recreation and Park District, dated January 23, 2003, the Regional Board outlined the following three viable options available to move the proposed project forward:

- The Regional Board assumes the role of "lead agency" for compliance with CEQA, either by making its own determination of exemption, or by preparing the requisite CEQA documentation (EIR or Neg. Dec.). If the Regional Board assumed the lead role in completing the CEQA documentation, the cost incurred by the Regional Board would be paid by the District.
- The District assumes the "lead agency" role, follows proper CEQA procedures, conducts the necessary investigations, and prepares the proper forms and documents. The required documents would then be submitted to the Regional Board with a complete Report of Waste Discharge (RWD) so that Regional Board staff could prepare tentative waste discharge requirements for consideration of adoption by the Regional Board. Most likely this would expedite the process and be more economical for the District than Option 1.
- The County of San Diego assumes the role of "lead agency" for CEQA purposes and performs the necessary tasks as described in Option 1 above. The District would then submit the documents as described in Option 2. This option may or may not take longer to complete CEQA than Option 2.

The letter to the District also indicated that one of the considerations in the environmental assessment process is the issue of the Williamson Act. The District will have to clarify the Williamson Act issues raised by opponents of the project.

A new Report of Waste Discharge (RWD) would be required to be submitted to the Regional Board for review and approval prior to construction of and discharge from the proposed project. The RWD should address the concerns brought forth at the November 13, 2002 Regional Board meeting including the following: 1) The District's plan to ensure that recreational vehicle (RV) wastes are contained in a separate holding tank and does not comeingle with septic system waste or enter the sub-surface disposal leach field, 2) the method of RV waste disposal, and 3) preparation and submittal of a groundwater monitoring plan.

The District was also advised on the creation of a groundwater monitoring plan, which shall include, but not be limited to, the number, location, and depth of monitoring wells. The monitoring wells shall be installed to groundwater depth to provide groundwater flow direction and representative groundwater samples down gradient of the subsurface treatment and disposal area and to verify compliance with the Basin Plan water quality objectives. The monitoring plan is subject to approval by the Regional Board.

By letter dated January 30, 2003 (copy attached), the District informed the Regional Board of its decision to move forward with Option 2 and assume the role of lead agency. The letter indicated that the District is currently accepting scoping information from responsible agencies and the public, and is gathering historical and technical information necessary to prepare an environmental document. To date, staff has not been notified of any public meetings.

**14. NPDES Compliance Inspections** *(Brian D. Kelley/John R. Phillips)*

The USEPA has provided funds to the State to be used to increase the number of National Pollutant Discharge Elimination System (NPDES) inspections conducted in California. There are 140 NPDES facilities permitted within the San Diego Region.

The USEPA has assigned one of its contractors, Tetra Tech, to conduct NPDES compliance inspections and municipal storm water audits on behalf of this Regional Board. Tetra Tech will conduct NPDES compliance inspections at 40 facilities within the San Diego Region. Tetra Tech staff conducted a total of 18 inspections during the week of February 10 - 14, 2003. Inspection reports for 13 of the 18 facilities have been submitted to Regional Board staff for review.

**15. Numerous Complaints Received** *(Stacey Baczowski/Bob Morris) (Attachment B-15)*

Regional Board staff within the watershed units have been receiving an increasing number of citizen complaints and requests for investigations related to the storm water program and activities within waters of the U.S. For example, between mid January and the end of February, the northern watershed unit staff received more than 32 requests for investigations of illicit discharges, mostly regarding sediment and runoff. During this same time period, the southern watershed unit staff received over 20 requests for investigations of illicit discharges, primarily for sediment discharges at construction sites. Complaints often address the action or inaction of a copermitee, unauthorized discharges to a storm drain or waters, and activities within waters by an upstream or downstream neighbor. Staff has been able to address complaints regarding copermitees, and where appropriate, have referred complaints regarding unauthorized discharges to the copermitees to evaluate and take action. Staff has been spending an increasing amount of staff resources responding to complaints generated by neighbors.

To conserve very limited staff resources for such investigations, staff prioritize investigation requests based on the following: (a) direct violation of a Regional Board or State Board Order; (b) actual versus threatened discharge to a receiving water; (c) receiving water listed as impaired on the 303(d) list for the pollutant being discharged; (d)

copermittee or resource agency request for assistance; (e) ongoing violation that can be addressed during a scheduled inspection; and (f) available resources. Prioritizing requests for investigations has resulted in subsequent complaints that staff are not concerned about water quality or are not doing their job. Staff are continuing to work on an approach that will maximize the use of our limited resources while adequately addressing complaints of the highest priority.

16. Proposed: Gregory Canyon Landfill (*Carol Tamaki and John Odermatt*) (*Attachment 16*)

On February 6, 2003, the County of San Diego Department of Environmental Health has reportedly approved the Environmental Impact Report (EIR) for the Gregory Canyon Landfill (see attachments 16 a and b). Gregory Canyon Landfill Ltd. (GCL) had delayed further discussion of the project design in the Joint Technical Document (JTD)/Report of Waste Discharge for the project, pending completion of the CEQA process by the County of San Diego. The Regional Board staff anticipates that GCL will resume discussions of their proposed project with the Regional Board staff in the near future.

17. Proposed: Campo Landfill Project (*John Odermatt*) (*Attachment 17*)

The Regional Board staff has received verbal notification that project proponents have revived efforts to construct a Class III municipal solid waste (MSW) landfill at the Campo Indian Reservation located east of the City of San Diego. The State Water Resources Control Board (SWRCB) initially evaluated technical aspects of the project during the early 1990's. From verbal information provided to the Regional Board staff, it appears that the SWRCB reviewed the project under terms of a cooperative agreement with the Band of Campo Indians.

On June 17, 2002, the SWRCB Executive Director received a letter of concern from "Back Country Against Dumps" (signed by Ms. Donna Tisdale) concerning the status of the Campo Landfill project. The SWRCB issued a written response to Ms. Tisdale's letter on July 23, 2002 (see attachment 17a). As indicated in the letter sent to Ms. Tisdale, the SWRCB issued Resolution No. 93-42 identifying several unresolved outstanding issues for the proposed project:

- a. The SWRCB had not evaluated the slope stability of the proposed landfill and a determination of the stability of the project had not been made.
- b. There was not a provision for an alternative water supply (in case of impact from landfill operation) of the same quantity and quality for any and all uses to any surrounding and adjacent property owners.

On December 13, 2002, the Regional Board staff had telephone conversations with Ms. Tisdale and the project proponent Campo Resource Recovery (Mr. Ralph Petruzzo). Mr. Petruzzo indicated that the fieldwork phase of construction would occur in approximately 18 months. Mr. Petruzzo also inquired about the jurisdictional authority of the State over a project that was being proposed on tribal lands belonging to the Campo Band of Indians. Regional Board staff indicated that the previous review and/or input on the

proposed project was provided by the SWRCB. As a result of that telephone conversation, the Regional Board staff faxed a copy of SWRCB Resolution No. 93-42 to Mr. Petruzzo for his reference.

More recently the San Diego Union-Tribune published an article on the project (see attachment 17b). At this point in time, it is unclear to the Regional Board staff what (if any) role the Regional Board has in regulating the construction and/or operation of the proposed Campo Landfill. The Regional Board staff has contacted the SWRCB Land Disposal Program Manager and requested that OCC staff advise us on the specific role, and/or limitations on authority, of the Regional Board in regulating the proposed Campo Landfill project.

18. Proposed Expansion of Landfill Operations at Sycamore Landfill (*Carol Tamaki and John Odermatt*) (*Attachment B-18*)

On February 7, 2003, the San Diego Union-Tribune published an article indicating that Allied Waste has applied with the City for an expansion of landfill operations within the permitted boundaries of the Sycamore Landfill (see attachment 18). Reportedly, the proposed expansion of landfill operations would increase the capacity of Sycamore Landfill from 20 million to 115 million tons of trash adding an additional estimated 36 years of operational life (until 2053) to the facility. Although the expansion of landfill operations would reportedly be contained within the permitted footprint, there will be a number of other technical and water quality issues that must also be resolved.

19. Landfill Capacity in the San Diego Region (*John Odermatt*) (*Attachment B-19*)

On February 16, 2003, the San Diego Union-Tribune published an article (see attachment 19) concerning the availability of landfill capacity in the San Diego Region. The article contains estimates of available landfill capacity and estimates of "operational life" for existing facilities located within San Diego County. The article also provides some information on additional proposed landfill projects (e.g., Gregory Canyon Landfill, Campo Landfill – see items above) and possible expansions of operations at existing landfills (e.g., Otay Landfill and Sycamore Landfill – see item above).

The Union-Tribune's published assessment of landfill capacity does not appear to include capacity estimates for existing Class III municipal solid waste (MSW) landfills located at Marine Corps Base Camp Pendleton (Las Pulgas and San Onofre Landfills) or the Prima Deshecha Landfill (Orange County). However, it is unclear if the landfills operated by the USMC or the County of Orange would accept wastes from domestic or commercial sources in San Diego County. Further, the article does not speculate on other waste management options, including:

- Additional expansions of landfill capacity for existing facilities at West Miramar or Ramona Landfills, or
- Transporting municipal solid wastes by truck or rail to another facility located outside the San Diego Region (e.g., Eagle Mountain Landfill: info available on the

web at <http://www.swrcb.ca.gov/~rwqcb7/99-061/> and  
<http://www.thedesertsun.com/news/stories/local/945308098.shtml>).

## **PART C**

### **STATEWIDE ISSUES OF IMPORTANCE TO THE SAN DIEGO REGION**

1. *Caulerpa taxifolia* Eradication and Prevention Activities (*Chiara Clemente, Lesley Dobalian & Bruce Posthumus*) (Attachment C-1)

Pursuant to SWRCB Resolution No. 2001-309, SDRWQCB staff completed the quarterly progress report to the SWRCB on *Caulerpa taxifolia* eradication and prevention activities for the period October through December 2002. A copy of the report is attached.

Although the results of eradication efforts thus far are encouraging, unless all *C. taxifolia* is found and successfully treated, the threat of re-growth and spread remains.

2. Clean Water Act Section 303(d) List of Impaired Waters – 2002 Update (*James Smith*)

On February 4, 2003 the State Water Resources Control Board (State Board) approved the statewide version of the 2002 update to the Clean Water Act Section 303(d) list. The final version can be found on the World Wide Web at:  
<http://www.swrcb.ca.gov/303dupdate.html>.

Regional Board staff submitted numerous comments to the State Board, both orally and in writing, objecting to certain State Board proposed listing decisions that were in conflict with Regional Board listing recommendations. These included the State Board's proposed listing decisions to (1) include all Orange County beaches in the San Diego Region for trash; (2) exclude Dana Point Harbor for copper; (3) include San Diego Bay near Crosby Street Park for contaminated sediment; and (4) list two contaminated sediment sites in San Diego Bay for "suspected" pollutants rather than for "known" sediment toxicity and degraded benthic communities. Regional Board staff member Jimmy Smith provided oral testimony at the State Board's February 4 public hearing regarding the latter issue.

In the end the SWRCB decided to (1) exclude the Orange County beaches for trash (they were added instead to an informal "Monitoring List" which was not adopted by the SWRCB); (2) exclude Dana Point Harbor for copper; (3) include Crosby Street Park for contaminated sediment; and (4) list two contaminated sediment sites in San Diego Bay for suspected pollutants rather than for known impairment conditions. The latter three decisions represent remaining areas of disagreement between the final adopted 2002 statewide Section 303(d) list and the Regional Board's recommended list.

The final step in the process is approval of the State Board's statewide list by USEPA, which is expected in April 2003. Additionally, Dave Smith of USEPA announced that States should be prepared to submit the next Section 303(d) list update in April 2004.



In related developments, the TMDL Roundtable continues development of the Section 303(d) Listing Policy. State Board plans to release a public draft of the policy by July of this year.